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H I P A A

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Privacy Medical Training and Education

TRICARE Management Activity, Privacy Office

Overview

The HIPAA Privacy Rule standardizes the way certain organizations may use or disclose protected health information (PHI), which is individually identifiable health information. The Privacy Rule protects a set of individually identifiable health information, called “protected health information”, or PHI. This includes identifiable demographic (name, address, etc.) and other information relating to the past, present, or future physical or mental health or condition of an individual, or the provision or payment of health care to an individual that is created or received by a health care provider, health plan, or clearinghouse.

How does the Privacy Rule apply to medical residents?

Medical students and residents use PHI in the course of their normal day-to-day training activities. This type of use is considered within the permitted uses of PHI, as if falls under healthcare operations. However, care should be taken to be discreet and guard PHI whenever possible. In addition, use of the minimum necessary rule is required. That is, when PHI is used or disclosed, the holder of the information must make reasonable efforts to limit the information to the minimum amount necessary to accomplish the intended purpose. However, there are instances in which the minimum necessary standard does *not* apply, including disclosures to or requests by a healthcare provider for treatment purposes and disclosures made to individuals in response to their request.

What are specific incidents which residents should be aware of?

- Grand Rounds – Training situations, such as Grand Rounds, involve the discussion of patient medical conditions (and thus PHI) in a group setting. Guidelines for these situations should be set and monitored. When PHI is discussed, care should be taken to use lowered voices around other individuals not involved. Whenever possible, patient identifiers, such as names, room numbers, etc. should not be used. If reasonable precautions such as these are taken, uses and disclosures will be considered incidental.

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- Use of photographs – Photographs are considered PHI and should be treated as such. Photographs may be used internally but may not be used externally, such as for research purposes.
- Business Associate Agreements – The Privacy Rule defines “business associates” as people or organizations that perform or assist in a function or activity involving the use or disclosure of individually identifiable health information on behalf of a covered entity, such as claims processing or administration, data analysis, or utilization review. Business associates are generally required to guarantee that they will appropriately safeguard the PHI they receive and use by signing a contract. Academic medical centers must consider whether or not they have relationships with business associates, such as “sister” facilities, that will require agreements.

What are the exceptions?

The Privacy Rule says that covered entities may use PHI in the course of treatment, payment, or health care operations. In addition, the following cases are also exceptions:

- To individuals of PHI about them
- Pursuant to a required authorization
- For the facility’s directory or to persons involved in the individual’s care
- For national security or intelligence purposes
- To correctional institutions or law enforcement officials
- As part of a limited data set
- For incidental uses that are permitted (i.e. sign-in sheets in waiting rooms, maintaining patient charts at bedside, discussing patient conditions during training rounds of a healthcare professional training program, etc.)
- Those that occurred prior to the compliance date for the covered entity.

It is important that medical students and residents are made aware of these exceptions so that they may appropriately use and disclose PHI.